

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 5:19CR107
	)	
Plaintiff,	)	JUDGE DAN AARON POLSTER
	)	
v.	)	
	)	
CHRISTOPHER SMALLWOOD,	)	<u>MOTION TO ALLOW GOVERNMENT'S</u>
	)	<u>WITNESS TO APPEAR BY VIDEO</u>
Defendant.	)	<u>TELECONFERENCE</u>

Now comes the United States of America, by and through counsel, Justin E. Herdman, United States Attorney, and Christopher J. Joyce, Assistant United States Attorney, and hereby moves this Honorable Court to allow Government's witness Dr. Dia Boutwell, National Forensics Evaluations Coordinator for the Bureau of Prisons, to appear by way of video teleconference at the upcoming hearing scheduled September 24, 2019.

The basis of the United States' motion is stated fully in the attached memorandum, which is incorporated herein by reference.

Respectfully submitted,

JUSTIN E. HERDMAN  
United States Attorney

By: /s/ Christopher J. Joyce  
Christopher J. Joyce (OH: 0086576)  
Assistant United States Attorney  
208 Seiberling Federal Courthouse  
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**Memorandum in Support**

Defendant, Christopher Smallwood, was indicted on February 28, 2019 in a two count indictment which included one charge of Interstate Communication of a Threat, in violation of 18 U.S.C. § 875(c), and one charge of Willfully Making a Threat, in violation of 18 U.S.C. § 875(c). Defendant surrendered himself to the Court on March 15, 2019 for his arraignment and was released on a bond. On March 21, 2019, the Court ordered the defendant to undergo a psychiatric or psychological examination to determine mental competency and sanity. On June 11, 2019, the Court held a hearing wherein it adopted the competency report prepared by Dr. Otto Kausch, and found that the defendant was not presently competent to stand trial, but may be restored to competency with proper treatment.

On August 8, 2019, the Court held a Status Conference to discuss the defendant's request for out-patient competency restoration. Following the status conference, the Court issued a schedule by which the parties were to submit reports discussing treatment options. The matter was also set for Status Conference September 24, 2019, at which defense expert Dr. Afsarifard and a representative from the Bureau of Prisons were ordered to attend.

As the Court is aware, the government's report was authored by Dr. Dia Boutwell, National Forensics Evaluations Coordinator for the Bureau of Prisons. Regrettably, Dr. Boutwell is unable to appear in person on the scheduled hearing date of September 24, 2019. Dr. Boutwell is scheduled to be in Dallas, Texas in order to work towards the opening of a new BOP facility designed to offer mental health treatment services to Federal Inmates.

I have inquired of Dr. Boutwell if there were another person who could appear in her place and provide testimony about treatment options in BOP at the hearing on September 24,

2019. Dr. Boutwell asserted that no other person could testify in her place. Dr. Boutwell will be available at the scheduled time of the hearing and has offered to provide testimony by way of the video teleconference equipment at the BOP facility in Dallas, Texas.

Given Dr. Boutwell's physical unavailability, the government respectfully requests that she be able to appear and provide testimony via video teleconference at the scheduled status conference on September 24, 2019 at 9:00 am.

Respectfully submitted,

JUSTIN E. HERDMAN  
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of September 2019, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Christopher J. Joyce

Christopher J. Joyce  
Assistant U.S. Attorney